

Memorandum

City of Lawrence

TO: City Commissioner Mike Dever
FROM: City Manager David L. Corliss
C: City Commission; Ernie Shaw, Mark Hecker
Date: April 27, 2011
RE: Proposed City Ordinance allowing fruit picking on City property

DRAFT

Mike,

You provided the attached draft change to City laws and asked for an analysis. The proposed change would be to Section 14-303 of the City Code governing damage to property. This law currently prohibits a person from willfully destroying, picking, carrying off, etc. any fruit or flower from any property owned by someone else. The proposed amendment would create an exception that the section would not prohibit the picking or carrying away of the ripe fruit of any tree, plant, or vine on any property owned by the City of Lawrence.

The City's Horticulture Manager provided a response expresses several concerns about the proposal. "Many areas we have planted native trees and shrubs for wildlife habitat. To allow the general public onto city properties to climb trees and pick all of the fruit off trees, shrubs and flowers (many are edible plants)... does not appear to be a good policy...this type of activity will detract for the general purpose of the parks for public enjoyment on many levels, including seasonal changes, wildlife habitat, and possibly injure the plants beyond survival....I believe the liability issues would also be a factor to consider."

The City owns and leases several separate acreage areas (near the airport, levee, utilities facilities, etc.) and these farm operations are not conducive to private citizens accessing the property to perform their own harvest operations which might interfere with lease contracts or planned harvests.

There is some City liability concern with whether citizens might interpret allowing fruit picking or other harvesting on City property as some level of guarantee about the edible safety or worthiness of the property.

A possible avenue to allow some fruit picking on City property is to work with interested citizens on this issue to identify specific City-owned areas for this activity, provide appropriate signage and some limited regulation (e.g. please clean-up after harvest operations, assume risk for edible nature of plants, etc.), and provide some level of support/education/monitoring of the activity. While Parks and Recreation staff resources do not allow for an extensive program of this nature, we do believe we could support a limited number of specific locations.

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14-303 CRIMINAL DAMAGE TO PROPERTY; HARMING PLANTS.

No person shall willfully injure or destroy any plant, tree, vine or flower, the property of another, standing on or attached to the land of another, or shall pick, destroy or carry away therefrom or in any way interfere with any part of the flowers or fruit thereof, except that this section shall not prohibit the picking or carrying away of the ripe fruit of any tree, plant, or vine on any property owned by the City of Lawrence.

(Code 1979, 14-302; Ord. 5516, Art. 3)